

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

MAURICE LAMONT DAVIS (02)

No. 3:15-CR-094-O

MOTION TO CORRECT JUDGMENT

The United States of America files this Motion to Correct Judgment and in support thereof would show the Court as follows:

I.

The government charged Defendant Maurice Lamont Davis with several offenses, including unlawful possession of a firearm by a felon, which was charged in Count Eight of the Indictment. (Dkt. No. 1 at 11.) A jury found Davis guilty of this and other charged offenses. (Dkt. No. 83 at 3.) At sentencing, the Court imposed a sentence of 180 months on this count. (Dkt. No. 135 at 12.)

On appeal, Davis challenges the sentence imposed on Count Eight. During its review of the record with respect to this challenge, the government identified two clerical errors in the judgment with respect to Count Eight. First, the judgment lists Count Eight as charging the unlawful use or brandishing of a firearm in furtherance of a crime of violence under 18 U.S.C. § 924(c). (Dkt. No. 116 at 1.) Second, the judgment states that the sentence imposed on Count Eight is 120 months. (Dkt. No. 116 at 2.)

II.

Rule 36 provides that the district court “may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” Fed. R. Crim. P. 36. A clerical error occurs when the court intends to do one thing but through clerical mistake or oversight does another. *United States v. Buendia-Rangel*, 553 F.3d 378, 379 (5th Cir. 2008).

Here, the record makes clear that (1) Davis was charged in Count Eight of the indictment with unlawful possession of a firearm by a felon under 18 U.S.C. § 922(g)(1), and (2) the Court imposed the statutory minimum sentence of 180 months on Count Eight. Pursuant to Rule 36, the government requests that the Court enter an amended judgment in this case reflecting these changes to reflect the offense charged in Count Eight of the indictment and the sentence imposed by the Court at the sentencing hearing.

Respectfully submitted,

JOHN R. PARKER
UNITED STATES ATTORNEY

s/ Brian McKay
BRIAN MCKAY
Assistant United States Attorney
Texas State Bar Number 24046395
1100 Commerce Street, Room 300
Dallas, Texas 75242-1699
Telephone: 214-659-8600
E-mail: brian.mckay@usdoj.gov

CERTIFICATE OF CONFERENCE

I certify that I conferred with Brandon Beck, the attorney for Davis, and he is not opposed to the entry of an amended judgment to reflect the Court's pronouncement of the sentence at the sentencing hearing.

s/ Brian McKay _____
BRIAN MCKAY

CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2016, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorney of record who has consented in writing to accept this Notice as service of this document by electronic means. Additionally, I have emailed a copy of the motion to Brandon Beck, the attorney for Davis.

s/ Brian McKay _____
BRIAN MCKAY